IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.585 OF 2007
IN
CHAMBER SUMMONS NO.311 OF 2007
IN
EXECUTION APPLICATION NO.243 OF 2005
IN
SUMM.SUIT NO.4760 OF 1997

SICOM Ltd. ..Plaintiff.

V/s.

Avikem Resins Ltd. & ors. ..Defendants.

And

Ms.Helen Shah @ Ms.Helen Samuel...Applicant.

WITH

CHAMBER SUMMONS NO.596 OF 2007
IN
CHAMBER SUMMONS NO. 318 OF 2007
IN
EXECUTION APPLICATION NO.242 OF 2005
IN
SUMM.SUIT NO.4759 OF 1997

SICOM Ltd. ..Plaintiff.

V/s.

Mr.Rajkumar Govil & ors. ..Defendants.

And

Ms.Helen Shah @ Ms.Helen Samuel...Applicant.

Mr.Gaurang Mehta for plaintiff.

Mr.Y.R.Dube for Applicant.

CORAM: A.M.KHANWILKAR,J

DATE : APRIL 19, 2007.

P.C. :

1. Chamber Summons No.585 of 2007 in Suit No.4760 of 1996 and Chamber Summons No.596 of 2007 in Suit No.4759 of 1997 are not on board. Upon mentioning taken on board and heard alongwith cognate Chamber Summons Nos.311 of 2007 and 318 of 2007 listed today.

2. After hearing counsel for the parties, I am inclined to partly allow the present Chamber Summons in the interest of justice. The applicant will have to be permitted to insert prayer clause 1a, 1b and 1c referred to at the end of Schedule in the pending Chamber Summons Nos. 311 of 2007 and 318 of 2007 respectively.

3. In other words, the plaintiff is allowed to pray for further relief and to amend the pleading in terms of this Order in the pending Chamber Summons. This however, is not an expression of opinion on the justness of the claim of the applicant, as such.

4. Counsel for plaintiff has opposed granting of this limited relief. In the interest of justice,

however, I think it appropriate to allow this limited amendment to the applicant.

5. In so far as other amendment sought by the applicant, that request cannot be accepted. There is no question of permitting the applicant to amend affidavit already filed on record before this Court. If the applicant so desires, it will be open to the applicant to file further affidavit after the amendment is carried out in terms of this order in the pending Chamber Summons Nos.311/07 and 318/07 respectively. Efficacy of the claim set up in the further affidavit will have to be decided after the plaintiff is given opportunity to file reply thereto. All those questions are left open.

6. Accordingly, Chamber Summons Nos. 585 of 2007 and 596 of 2007 are made absolute on the above terms. Amendment allowed in terms of this order be carried out within one week from today. It will be open to the applicant to file further affidavit in the pending Chamber Summons Nos. 311 of 2007 and 318 of 2007 respectively. If such affidavit is filed the applicant, the plaintiff will file reply affidavit within two weeks therefrom.

7. Place the pending Chamber Summons Nos.311 of 2007 and 318 of 2007 on 8th June, 2007.

8. All steps taken with regard to the property, in which the applicant asserts claim, will be subject to the outcome of the pending Chamber Summons. As Counsel for the plaintiff submits that the matter will not be precipitated further, there is no question of considering prayer for ad-interim relief. In other words, the plaintiff will not interfere with the possession of the applicant with regard to the suit property till the next date of hearing.